

1 KEVIN V. RYAN (CASBN 118321)
2 United States Attorney

03/11/2015 11:04:14
RECEIVED
U.S. DISTRICT COURT
SAN FRANCISCO

3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION
11

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 MATTHEW HATTABAUGH,

16
17 Defendant.
18

No. CR 02 0409 VRW

VIOLATION: Title 18, United States
Code, Section 1343 - Wire Fraud

SAN FRANCISCO VENUE

19
20 SUPERSEDING INDICTMENT

21 The Grand Jury charges:

22 COUNTS ONE THROUGH TWELVE: (18 U.S.C. § 1343 – Wire Fraud)

23 INTRODUCTORY ALLEGATIONS

24 1. At all times relevant to this Superseding Indictment:

25 a. Defendant MATTHEW HATTABAUGH represented himself to be the
26 President, CEO, and Treasurer of Pacific American Capital Holding, Inc. ("PACH"),
27

28 SUPERSEDING
INDICTMENT
[CR 02 0409 VRW]

1 a holding company whose primary subsidiary was a bank, Pacific American Capital
2 Corporation ("PACC"). HATTABAUGH represented himself to be the Chairman and
3 CEO of PACC.

4 b. HATTABAUGH represented that PACH and PACC shared a business address
5 at 90 Athol Avenue, Suite 3 or Suite 3E, Oakland, California. 90 Athol Avenue is an
6 apartment building. HATTABAUGH resided in Apartment 3-F at 90 Athol Avenue,
7 Oakland, California from approximately March 2002 until approximately December 5,
8 2002.

9 c. HATTABAUGH and another individual known to the grand jury were
10 signatories on Bank of America account 00339-10284 held in the name of PACH.

11 THE SCHEME TO DEFRAUD

12 2. Beginning at a time unknown, but no later than September 1, 2002, and continuing
13 through on or about December 10, 2002, in the State and Northern District of California,
14 and elsewhere, the defendant,

15 MATTHEW HATTABAUGH

16 did devise and intend to devise a scheme and artifice to defraud investment brokers and
17 prospective investors and to obtain money belonging to those brokers and investors by
18 inducing them to invest in and pay fees to PACH and PACC by means of false and
19 fraudulent pretenses, representations, and promises as follows:

20 FALSE REPRESENTATIONS
21 REGARDING THE BANK GUARANTEES

22 3. HATTABAUGH falsely represented to brokers and representatives of potential
23 investors, including representatives of Institutional Investments and Olund & Associates,
24 and others that:

25 a. PACH/PACC was a banking institution in good standing with the Federal
26 Deposit Insurance Corporation (FDIC), and that PACH/PACC held FDIC-insured funds
27 in excess of \$58 million.

28 SUPERSEDING
INDICTMENT
[CR 02 0409 VRW]

1 b. HATTABAUGH purchased the FDIC charter previously belonging to California
2 Pacific Bank.

3 c. PACH/PACC possessed and held authentic originals of financial instruments
4 entitled Official Bank Guarantees (hereinafter "Bank Guarantees") allegedly issued by
5 Sumitomo Mitsui Banking Corporation of Japan (SMBC).

6 d. PACH was an affiliate of SMBC International Banking Unit International
7 Credit Department III.

8 e. SMBC appointed HATTABAUGH as its agent, and vested him with authority
9 to bind SMBC in regards to the Bank Guarantees.

10 f. SMBC authorized HATTABAUGH to verify the authenticity of and negotiate
11 the Bank Guarantees.

12 4. HATTABAUGH represented to brokers and representatives of potential investors
13 that he was prepared to sell the Bank Guarantees, offer the Bank Guarantees to potential
14 investors as collateral for loans, and/or invest the Bank Guarantees on behalf of potential
15 investors in exchange for a fee.

16 FALSE REPRESENTATIONS
17 REGARDING THE CERTIFICATES OF DEPOSIT

18 5. HATTABAUGH falsely represented to brokers and representatives of potential
19 investors, including representatives of Institutional Investments and Asset Management
20 and Referral Services, and others, that:

21 a. PACH/PACC was a banking institution in good standing with the FDIC, and
22 that PACH/PACC held FDIC-insured funds in excess of \$58 million.

23 b. HATTABAUGH purchased the FDIC charter previously belonging to
24 California Pacific Bank.

25 c. HATTABAUGH was seeking to raise funding for his bank, PACH/PACC.

26 d. PACH/PACC was authorized to issue Certificates of Deposit under the name of
27 either PACH or California Pacific Bank, which would secure investors' funds.

28 SUPERSEDING
INDICTMENT
[CR 02 0409 VRW]

e. The Certificates of Deposit would be insured by the FDIC.

6. HATTABAUGH directed that prospective investors in the Certificates of Deposit wire transfer funds to PACH's account at Bank of America.

USE OF THE WIRES

7. HATTABAUGH, for the purpose of executing the scheme and artifice to defraud, did knowingly transmit, and cause to be transmitted, the following wire communications in interstate commerce:

Count	Approximate Date of Wire	Origin of Wire	Destination of Wire	Description of Wire
1	11/8/02	Northern District of California	Florida	Letter from Hattabaugh's attorney faxed to counsel for Olund & Associates
2	11/14/02	Northern District of California	Florida	Letter of intent faxed from Hattabaugh to counsel for Olund & Associates
3	11/14/02	Northern District of California	Switzerland	Letter of intent faxed from Hattabaugh to Octomar Company
4	11/18/02	Northern District of California	California via Nevada	Fax from Hattabaugh to Institutional Investments
5	11/19/02	Northern District of California	California via Nevada	Fax from Hattabaugh to Institutional Investments, enclosing Bank Guarantee
6	11/20/02	Northern District of California	California via Nevada	Fax from Hattabaugh to Institutional Investments, enclosing purported FDIC Statement of Account
7	11/20/02	Northern District of California	California via Nevada	Fax from Hattabaugh to Institutional Investments, enclosing purported letter from FDIC

SUPERSEDING
INDICTMENT
[CR 02 0409 VRW]

8	11/20/02	Northern District of California	California via Nevada	Fax from Hattabaugh to Institutional Investments, enclosing purported letter from Bank of Canton of California
9	11/20/02	Northern District of California	California via Nevada	Fax from Hattabaugh to Institutional Investments, enclosing purported letter from Euroclear and other documents
10	11/21/02	Texas	Northern District of California	\$100,000 wire transfer from Corporate Federal Credit Union to Bank of America account no. 00339-10284
11	11/22/02	Florida	Northern District of California	\$469,743.18 wire transfer from Peninsula Bank to Bank of America account no. 00339-10284
12	11/27/02	Northern District of California	California via Nevada	Fax from Hattabaugh to Institutional Investments, enclosing purported Bank Guarantees

All in violation of Title 18, United States Code, Section 1343.

DATED:

A TRUE BILL.

FOREPERSON

KEVIN V. RYAN
United States Attorney

ROSS W. NADEL
Chief, Criminal Division

(Approved as to form:

AUSA BADGER

SUPERSEDING
INDICTMENT
[CR 02 0409 VRW]